UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 81-2681

UNITED STATES OF AMERICA

v.

PHILLIP GAZIANO, ALFRED ROYSTER, JR.
SUNCREST ENVIRONMENTAL RESOURCES CORP.

Phillip Gaziano,

Appellant

(D.C. Criminal No. 81-00006-01)

ON APPEAL FROM THE UNITED
STATES DISTRICT COURT
FOR THE WESTERN DISTRICT
OF PENNSYLVANIA

Submitted Under Third Circuit Rule 12(6)
May 10, 1982
Before: GIBBONS and HUNTER, Circuit Judges
and THOMPSON, District Judge*

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*Hon. Anne E. Thompson, United States District Judge for the District of New Jersey, sitting by designation.

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Attorney for Appellant

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Attorneys for Appellee

JUDGMENT ORDER

Phillip Gaziano appeals from a judgment of sentence following a conviction for mail fraud, 18 U.S.C. § 1952, conspiracy, 18 U.S.C. § 371, obstruction of justice, 18 U.S.C. § 1510, and subornation of perjury, 18 U.S.C. § 1503. He contends:

1) that Henrietta Foster was a government agent when she took records from her

employer Suncrest Environmental Resources, Inc., and those records and their fruits should have been suppressed;

2) that the government violated Rule 6(e), Federal Rules of Criminal Procedure when it permitted Henrietta Foster to examine subpoenaed records, and that violation requires a new trial.

There is no merit to these contentions.

It is O R D E R E D and A D J U D G E D that the judgment of the district court is affirmed.

BY THE COURT,

/s/John J. Gibbons
Circuit Judge

Attest:

/s/Sally Mrvos
Sally Mrvos, Clerk

DATED: MAY 11, 1982

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ROYSTER, ALFRED, JR.
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PHILLIP GAZIANO,

Appellant

(D.C. Crim. No. 81-0006-01)

Pursuant to Rule 41(b) of the Federal Rules of Appellate Procedure, it is O R D E R E D that issuance of the certified judgment in lieu of formal mandate in the above cause be, and it is hereby stayed until July 1, 1982.

/s/John J. Gibbons

Judge

Dated: June 4, 1982